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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,880	05/25/2001	Gustav Tappe	LE 00 022	8018

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EXAMINER

LE, HOA VAN

ART UNIT PAPER NUMBER

1752

DATE MAILED: 01/06/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/865,880	Applicant(s) TAPPE ET AL.	
	Examiner Hoa V. Le	Art Unit 1752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-16, 19-21 and 25-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-16, 19-21 and 25-29 with respect to the elected phosphate species only is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 13-16, 19-21 and 25-29 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

This is in response to Papers filed on 30 December 2002.

- I. In view of the Amendment the Papai (6,221,570) is withdrawn as a primary reference.
- II. In view of the English language translation of the priority document No. 100 39 719.0 the Papai (Serial No. 09/715, 612 now Patent No. 6,455,236) is withdrawn. No interference is set up because of the limited evidence on the record patentee's claims not being required the essential ingredients of sulfite, disulfite and sulfinic acid as those in the instant claims.
- III. It is found that Papai (6,455,236) has a sufficient reason to requested (1) an interference process any time during the prosecution of this application or (2) re-examination if this application is issued to be a patent provided that patentee would show any document of the bleach-fixing composition in Example 6 was or has been conceived and/or reduced to practice on or prior to 14 August 2000.
- IV. (1) A careful studying of the invention in the instant application shows that the claimed amounts of the chemical ingredients in the claimed concentrate are also within those in the "ready-to-use" composition.

(2) The language "concentrate" in the claims has and is given a limited value since at least the main invention of claim 13 contains less than 0.1 mol/l of a bleaching agent, less than 0.2 mol/l of a sulfite and less than 0.5 mol/l of thiosulfate. These amounts are found to be much

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lower than those in a known or conventional ready-to-use bleach-fixing composition. Evidence can be seen in least in EP 0 532 042 on page 79 as submitted by applicants.

(3) The claims will be continued to be rejected until the issue of the amount of each of the requisite chemical ingredients is overcome. There are above more than a dozen of references are found. Applicants will have a change to see how they will be applied a few at a time.

V. The record shows that applicants elect phosphate species for the consideration, search and examination. Other non-elected species have not been considered, searched or examined until the all of the applied references and elected species are overcome.

VI. The independent claim 13 is considered as the main invention, the dependent claims 13-16, 19-21 and 25-29 are considered as the secondary embodiments. The dependent claims 13-16, 19-21 and 25-29 are permitted to be rejoined with their independent claim 13 if the main invention of the independent claim 13 is found to be allowable.

VII. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(1) Claims 13-16 and 19-21 and 25-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Meckl et al (3,293,036) on the record.

Merkel et al disclose, teach and suggest a composition comprising a bleach agent, a fixing agent, a sulfite and more than 0.01 mol/l of phosphate. Please see col.2:55-65. The language “concentrate” has no and is given value in the applied statute. Since Merkel et al disclose, teach and suggest the requisite chemical ingredients and the amount of phosphate, the above claims are found to be anticipated by Merkel et al.

(2) Claims 13-16 and 19-21 and 25-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohkubo et al (3,591,380) on the record.

Ohkubo et al disclose, teach and suggest a composition comprising a bleach agent, a fixing agent, a sulfite and more than 0.01 mol/l of phosphate. Please see col.4:33-43. The language “concentrate” has and is given no value in the applied statute. Since Ohkubo et al disclose, teach and suggest the requisite chemical ingredients and the amount of phosphate, the above claims are found to be anticipated by Ohkubo et al.

(3) Claims 13-16 and 19-21 and 25-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Schranz et al (3,879,203) on the record.

Schranz et al disclose, teach and suggest a composition comprising a bleach agent, a fixing agent, a sulfite and more than 0.01 mol/l of phosphate. Please see col.5:67 to 6:9. The language “concentrate” has and is given no value in the applied statute. Since Schranz et al disclose, teach and suggest the requisite chemical ingredients and the amount of phosphate, the above claims are found to be anticipated by Schranz et al.

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VIII. (A) Claims 13-16, 19-21 and 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merkl et al (3,293,036) on the record alone or considered in view of Papai (6,221,570).

(1) A careful studying of the invention in the instant application shows that the claimed amounts of the chemical ingredients in the claimed concentrate are also within those in the “ready-to-use” composition. (2) The language “concentrate” in the claims has and is given a limited value since at least the main invention of claim 13 contains less than 0.1 mol/l of a bleaching agent, less than 0.2 mol/l of a sulfite and less than 0.5 mol/l of thiosulfate. These amounts are found to be much lower than those in a known or conventional ready-to-use bleach-fixing composition. (3) Merkl et al disclose, teach and suggest a bleach-fixing composition comprising a bleach agent, a fixing agent, a sulfite and more than 0.01 mol/l of phosphate. Please see col.2:55-65. Since Merkl et al disclose, teach and suggest the requisite chemical ingredients and the amount of phosphate, the above claims are found to be rendered prima facie obvious by Merkl et al. Papai is further cited to show the teaching and suggestion of a pH of a bleach-fixing composition. Please see col.4:55-59.

(B) Claims 13-16, 19-21 and 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohkubo et al (3,591,380) on the record alone or considered in view of Papai (6,221,570).

(1) A careful studying of the invention in the instant application shows that the claimed amounts of the chemical ingredients in the claimed concentrate are also within those in the

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“ready-to-use” composition. (2) The language “concentrate” in the claims has and is given a limited value since at least the main invention of claim 13 contains less than 0.1 mol/l of a bleaching agent, less than 0.2 mol/l of a sulfite and less than 0.5 mol/l of thiosulfate. These amounts are found to be much lower than those in a known or conventional ready-to-use bleach-fixing composition. (3) Ohkubo et al disclose, teach and suggest a bleach-fixing composition comprising a bleach agent, a fixing agent, a sulfite and more than 0.01 mol/l of phosphate. Please see col.4:33-43. Since Ohkubo et al disclose, teach and suggest the requisite chemical ingredients and the amount of phosphate, the above claims are found to be rendered prima facie obvious by Ohkubo et al. Papai is further cited to show the teaching and suggestion of a pH of a bleach-fixing composition. Please see col.4:55-59.

(C) Claims 13-16, 19-21 and 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schranz et al (3,879,203) on the record alone or considered in view of Papai (6,221,570).

(1) A careful studying of the invention in the instant application shows that the claimed amounts of the chemical ingredients in the claimed concentrate are also within those in the

“ready-to-use” composition. (2) The language “concentrate” in the claims has and is given a limited value since at least the main invention of claim 13 contains less than 0.1 mol/l of a bleaching agent, less than 0.2 mol/l of a sulfite and less than 0.5 mol/l of thiosulfate. These amounts are found to be much lower than those in a known or conventional ready-to-use bleach-fixing composition. (3) Schranz et al disclose, teach and suggest a bleach-fixing composition comprising a bleach agent, a fixing agent, a sulfite and more than 0.01 mol/l of phosphate. Please

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see col.5:66 to 6:9. Since Schranz et al disclose, teach and suggest the requisite chemical ingredients and the amount of phosphate, the above claims are found to be rendered prima facie obvious by Schranz et al. Papai is further cited to show the teaching and suggestion of a pH of a bleach-fixing composition. Please see col.4:55-59.

IX. In view of the Amendment to the main invention of claim 13, the newly modified rejections are made. However, the final rejection in the Office action mailed on 23 October 2002 is withdrawn.

X. It is foreseen that the next Office action would not be an allowance. It would need at least several additional Office actions to resolved all of the main issues in this application if applicants keep finding ways to amendment the claims. The Office is ready to work with each of them. Each time it is more chances and times to take a closer look at each remaining issue.

XI. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa V. Le whose telephone number is 703-308-2295. The examiner can normally be reached on 6:30AM-5:00PM, M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Baxter can be reached on 703-308-2303. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7172 for regular communications and 703-746-7172 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Hoa V. Le
Primary Examiner
Art Unit 1752

HVL.
January 3, 2003

HOA VAN LE
PRIMARY EXAMINER

Hoa Van Le